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June 22, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen *DEJ(g)*
Chief Administrative Officer

SACRAMENTO UPDATE

Assembly Speaker Nuñez and Senate President pro Tem Perata Merge Health Care Reform Bills

On June 21, 2007, Assembly Speaker Fabian Nuñez and Senate President pro Tem Don Perata announced that they will merge their respective health care reform bills, AB 8 and SB 48, into a single vehicle. A summary of the compromise is attached.

Key elements include:

- Guaranteed health insurance for everyone in the individual market without serious medical conditions, and a high risk pool for those with serious medical conditions.
- Elimination of the mandate for individuals to maintain a minimum policy of health care coverage for themselves and their dependents.
- Premium subsidies to families under 300 percent of the Federal Poverty Level who are offered employer-sponsored insurance.

- A requirement that employers establish Section 125 plans for purposes of sheltering employee health insurance premiums from state and federal taxes.
- A requirement that the Managed Risk Medical Insurance Board ensure that health plans contracting with the purchasing pool use efficient practices to control costs.

Our Sacramento advocates understand that the elements of this compromise will be amended into AB 8, which could be heard in the Senate Health Committee as early as Wednesday, July 11, 2007.

Pursuit of County Position on Legislation

AB 1581 (Fuller), as introduced on February 23, 2007, recognizes a traffic-actuated signal as an official traffic control device and requires a traffic-actuated signal to detect lawful bicycle or motorcycle traffic on the roadway.

Existing law establishes an "official traffic control signal" to be any device, whether manually, electronically, or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction. AB 1581 would: 1) define a traffic-actuated signal as an "official traffic control device that displays one or more of its indications in response to the presence of traffic detected by mechanical, visual, electrical, or other means"; 2) require upon the first placement or replacement of a traffic-actuated signal (to the extent feasible and in conformance with professional engineering practices) to detect lawful bicycle or motorcycle traffic on the roadway; 3) provide that cities and counties shall only comply with this requirement subsequent to Caltrans establishing uniform standards, specifications, and guidelines for the detection of bicycles by traffic-actuated signals and related signal timing; and 4) sunset the bill's provisions on January 1, 2018.

DPW indicates that equipment currently in use by the Department already detects motorcycles. The installation and maintenance of detection devices for bicycles for new or replacement devices for all movements would be costly. Depending on the geometric layout of the intersection and how the traffic signal is programmed to operate, DPW indicates it would cost approximately \$1,000 to \$5,000 per approach to install a detection system for bicycles at any location with a signalized intersection.

In addition, DPW indicates that an additional annual cost of approximately \$500 per intersection would be required to maintain each of these systems. The County currently maintains approximately 800 intersections that would require the detection system for bicycles to be installed upon the initial placement or replacement of a traffic-actuated signal. The estimated costs to install only the detection at these locations is estimated

to be \$3.2 million to \$16 million. The actual costs would be dependent on the total of all new placements and device replacements. DPW indicates that this bill would be an unfunded mandate if passed.

Furthermore, DPW states that the technology to detect bicycles is not readily available at this time and using unproven technology may have the unintended consequence of hindering the operation of the signal thereby increasing traffic congestion. DPW recommends that the County oppose AB 1581, unless amended to: 1) limit the requirement for the detection of bicycles to intersections that are along designated bike routes, and 2) reimburse local agencies for all costs associated with the requirements of the bill.

Opposition to AB 1581 is consistent with existing County policy to: 1) oppose new unfunded mandates unless they promote a higher priority, and 2) policy to support funding for pedestrian projects such as crosswalks, lighting, and traffic control. **Therefore, our Sacramento advocates will oppose AB 1581, unless amended, as indicated above.**

AB 1581 is sponsored by American Bikers Aimed Towards Education of California and supported by: Automobile Club of Southern California, California State Automobile Association, California Traffic Safety Institute, East Bay Bicycle Coalition, I Drive Safely, National Association of Driving Safety Educators, and Orange County Bicycle Coalition. There is no known opposition at this time. This measure is set for hearing on June 26, 2007 in the Senate Transportation and Housing Committee.

SB 184 (Alquist and Correa), as introduced on February 6, 2007, would revise the process and conditions by which a local entity may be reimbursed by the State for advance expenditures on a transportation project contained in the State Transportation Improvement Program (STIP).

Existing law permits a local agency, provided it has entered into a reimbursement agreement with Caltrans, to expend local funds for an eligible STIP project within 12 months preceding the date that the project would have received an allocation from the California Transportation Commission (CTC). The STIP is California's state capital outlay program. It is updated every two years and adopted by the CTC. AB 872 (Alquist) of 1999 created the reimbursement process in existing law. According to the Senate Transportation and Housing Committee analysis, at the time the bill was enacted, the State Highway Account was relatively flush with revenue and it was assumed that CTC would repay agencies that advanced funds. Because AB 872 did not specifically require repayment, local agencies have been reluctant to use this mechanism.

SB 184 would: 1) limit the reimbursement provisions to projects programmed in the current year of the STIP; 2) require the local or regional entity to request an allocation from the CTC within 12 months of its first expenditure of local funds on a qualified project; 3) require the CTC to approve the project for future allocation should there be insufficient funds in the State Highway Account to allocate to a project, provided the project meets all the requirements for reimbursement; and 4) prohibit the CTC from establishing a timeframe limiting reimbursement to a local or regional agency.

DPW has numerous projects currently programmed in the STIP and anticipates the programming of several additional projects in the near future. If enacted, DPW indicates that SB 184 would provide assurances that a local agency taking advantage of the reimbursement mechanism provisions will be fully reimbursed. Therefore, DPW recommends that the County support SB 184.

Support for SB 184 is consistent with existing policy to: 1) support funding for County transportation projects, and 2) support the direct allocation of funds to local governments for the preservation of local streets and roads, without reducing other transportation funds or impacting other agencies. **Therefore, our Sacramento advocates will support SB 184.**

This measure is co-sponsored by the Santa Clara County Valley Transportation Authority and the Orange County Transportation Authority, and supported by the Silicon Valley Leadership Group. There is no registered opposition. SB 184 passed the Senate Floor on June 6, 2007 by a vote of 40 to 0, and is currently set for hearing in the Assembly Transportation Committee on June 25, 2007.

SB 201 (Florez), as amended on June 5, 2007, would impose restrictions on the handling and processing of leafy green vegetables, regulating water use, fertilizer, and soil amendment. Specifically, this bill would: 1) describe various practices that shall not be engaged in by growers, handlers, shippers, or processors of leafy green vegetables including using uncomposed, incompletely composed, or non-thermally treated manure as a fertilizer or soil amendments in fields, maintaining toilet facilities or other receptacles for human excreta in fields, using irrigation water that exceeds acceptable contamination levels, or selling, transferring, or otherwise putting into the production or distribution chain, any leafy green vegetable that exceeds acceptable contamination levels, as specified; 2) provide that a violation of these provisions, or any regulation adopted by the State Department of Public Health (SDPH) is a civil penalty up to \$10,000 per occurrence; and 3) provide that the SDPH may impose a fine not exceeding \$25,000 per occurrence.

In addition, SB 201 would require the SDPH to adopt regulations developing: 1) Hazard Analysis and Critical Control Point guidelines; 2) Good Agricultural Practices for growers, handlers, shippers, and processors of leafy green vegetables, as specified;

and 3) model documents and checklists to assist growers, handlers, shippers, and processors to comply with these provisions. Growers, handlers, shippers, and processors would be allowed to petition for a variance permitting the use of alternative Good Agricultural Practices that provide equivalent consumer protection, as specified. Under SB 201, growers would be required to test all irrigation water used on leafy green vegetables, at a minimum, once prior to the growing season, bi-weekly during the growing season, and once immediately prior to harvest. If recycled water is used as irrigation water, additional testing may be required should the SDPH issue recycled water regulations requiring the testing. Additional water quality tests for all irrigation water may be required if the SDPH determines additional tests are required as part of Good Agricultural Practices for the growing of leafy green vegetables.

SB 201 would also require growers of leafy green vegetables to obtain water quality reports at least quarterly from municipal water districts or agencies supplying recycled water for the irrigation water they provide. These reports and the results of all water quality testing performed by the grower must be maintained by the grower ready for inspection by county health inspectors or agricultural commissioners for a minimum of three years.

According to the Senate Floor analysis, supporters of SB 201 indicate that voluntary self-regulation by the leafy green industry has been disastrous for consumers and noted that the leafy green industry has lost \$100 million over the last six months due to declining consumer confidence. Supporters are concerned that the State Department of Food and Agriculture (DFA) is allowing the industry to create its own best practices standards and that the voluntary marketing agreement put in place after the E. coli outbreak in September 2006 does not cover all leafy greens that reach the marketplace. Several individual victims of the September 2006 E. coli outbreak indicate that requiring government oversight of the leafy green industry in statute will create a mandatory plan that requires the use of good agricultural practices of every farm, every day. They believe that E. coli contamination is a public health issue, and public health officials, not only the DFA, must be involved in the regulation of the leafy green industry.

DPW indicates that the provisions in SB 201 create an unnecessary burden for irrigating leafy green vegetables and a disincentive to utilize recycled water for that purpose. The municipal water districts and recycled water agencies supplying irrigation water are responsible for ensuring the water they supply meets standards established by the SDPH. Periodic testing by these entities already occurs at frequencies determined by the SDPH to protect public health and documentation associated with this testing is maintained by the suppliers of the irrigation water. DPW also notes that the bill creates a duplicative process that will result in unnecessary additional costs to consumers of leafy green vegetables because recycled water undergoes rigorous testing under State regulations and regional water quality boards prior to delivery.

In addition, DPW indicates there is the potential for more burdensome requirements to be placed on growers using recycled water. This could result in growers choosing to use potable water rather than recycled water to irrigate leafy green vegetables in order to avoid the additional cost and effort associated with irrigating with recycled water. DPW indicates this is contrary to the State policy of viewing recycled water as a resource and to the County approved policy of increasing the use of recycled water. Therefore, DPW recommends that the County oppose SB 201 unless amended to eliminate the provisions requiring the additional water quality testing and maintenance of water quality records by the growers.

The Department of Public Health (DPH) indicates that since the municipal water company is already permitted and regulates the water quality that is used in the irrigation or crops, more stringent water quality monitoring, testing, and record keeping by growers is not necessary. DPH concurs with DPW's recommendation to oppose SB 201, unless amended.

SB 201 is contrary to existing County policy which supports legislation that increases the use of recycled water within Los Angeles County. Therefore, opposition to SB 201 is consistent with existing County policy supporting the increased use of recycled water. As a result, **our Sacramento advocates will oppose SB 201 unless amended as indicated above.**

SB 201 is supported by the Consumers Union and Owner-Operator Independent Drivers Association. It is opposed by several organizations, including: Agriculture Council of California; Association of California Water Agencies; California Chamber of Commerce; California Farm Bureau Federation; California Seed Association; California Women for Agriculture; Community Alliance with Family Farmers; Coachella Valley Water District; Cucamonga Valley Water District; Eastern Municipal Water District; Inland Empire Utilities Agency; Planning and Conservation League (unless amended); United Water Conservation District; Western Growers Association; and Western Municipal Water District. This measure is currently at the Assembly Desk awaiting referral to a policy committee.

Status of County Advocacy Bills

County-sponsored AB 223 (Runner), which would allow those called to active military duty on short notice to cast absentee ballots in elections, was unanimously approved by the Senate Committee on Elections, Reapportionment and Constitutional Amendments on June 20, 2007 on its consent calendar, and now proceeds to the Senate Appropriations Committee.

County-sponsored SB 959 (Romero), which would authorize a board of supervisors to allow the Sheriff to implement an involuntary home detention program to relieve jail

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overcrowding, was approved unanimously by the Assembly Public Safety Committee on Tuesday, June 19, and now proceeds to the Assembly Appropriations Committee.

We will continue to keep you advised.

DEJ:GK:MAL
DD:IGR:dc

Attachment

c: All Department Heads
Legislative Strategist
Local 660
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants

MERGING PROVISIONS OF AB 8 (NUÑEZ) AND SB 48 (PERATA)

Summary of Key Compromises

1. GUARANTEED ISSUE & INDIVIDUAL MANDATE

AB 8

- No individual mandate.
- Individual market: Managed Risk Medical Insurance Board (MRMIB) to create a list of high risk conditions, individuals with those conditions go to high risk pool.
- Linked to AB 2 (Dymally) which restructures and fully funds the high risk pool by a broad assessment on all health plans.
- Guaranteed issue of all other products in the individual market

SB 48

- Individual mandate for individuals above 400% of the federal poverty level unless their share of premium exceeds 5% of family income.
- High risk pool or reinsurance model for individuals under 400% of FPL not subject to the individual mandate with serious medical conditions.
- High risk pool/reinsurance funded by a broad assessment on all health plans.
- Guaranteed issue of all products with some phase in based on the effectiveness of the individual mandate.

COMPROMISE: Guaranteed issue for everyone in the individual market *without* serious medical conditions. High risk pool for individuals with serious medical conditions, funded by a broad assessment on health plans. No individual mandate.

2. AFFORDABILITY

- SB 48 requires MRMIB to ensure that premiums for employees under 300% of FPL in the purchasing pool do not exceed 5% of family income after taking into account tax savings.
- AB 8 does not.

COMPROMISE: Senate Version

3. EFFECTIVE DATE OF PURCHASING POOL AND EMPLOYER FEE

- AB 8: 2009
- SB 48: 2011

COMPROMISE: 2010

4. PREMIUM ASSISTANCE

- AB 8 provides assistance to families and children under 300% of FPL that are offered employer-sponsored insurance by subsidizing their premiums.
- SB 48 does not.

COMPROMISE: Assembly Version

5. MINIMUM EMPLOYER SPENDING REQUIREMENT

- SB 48 gives MRMIB the authority to adjust the employer fee to ensure fiscal solvency.
- AB 8 does not.

COMPROMISE: Senate Version

6. SMALL BUSINESS EXEMPTIONS

- AB 8 contains the following exemptions for small business that:
 - a. Have less than 2 employees;
 - b. Have a payroll of \$100,000 or less; or
 - c. Are in business for 3 years or less
- SB 48 contains no exemptions for small business

COMPROMISE: Senate Version

7. MANDATORY SECTION 125 PLANS

- AB 8 requires all employers to establish Section 125 plans for purposes of sheltering employee health insurance premiums from state and federal tax.
- SB 48 requires employers that opt to pay the fee to establish Section 125 plans.

COMPROMISE: Assembly Version

8. INSURANCE MARKET REFORMS

- AB 8 extends small group rules to mid-size employers with 51-250 employees.
- SB 48 extends the small group rules to mid-size employers with 51 – 199 employees.

COMPROMISE: Assembly Version

- SB 48 phases out the rate bands established in the mid-size group market.
- AB 8 does not.

COMPROMISE: Senate Version

- AB 8 requires MRMIB to create a standardized medical underwriting form for the individual market and requires health plans to offer 3 uniform benefit designs across both the individual and group markets.
- SB 48 does not.

COMPROMISE: Assembly Version.**9. COST CONTAINMENT**

- SB 48 directs MRMIB to ensure that health plans contracting with the purchasing pool use efficient practices to control costs (preventive care, chronic disease management, standardized billing, health lifestyles, etc.). SB 48 requires MRMIB to negotiate with Medi-Cal managed care plans.
- AB 8 does not.

COMPROMISE: Senate Version

- AB 8 requires the Health & Human Services Agency to develop fitness, wellness and health promotion programs; pay for performance standards in all state programs; and best practices standards for treatment of chronic diseases.
- SB 48 does not.

COMPROMISE: Assembly Version**10. REQUIRED EVALUATION**

- AB 8 and SB 48 both require an evaluation on the progress of the Act, but with different required elements.

COMPROMISE: Senate Version**11. TITLE OF THE PURCHASING POOL:**

- SB 48: The Connector
- AB 8 : The California Cooperative Health Insurance Purchasing Program (Cal-CHIPP)

COMPROMISE: Assembly Version